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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91201400
Party	Plaintiff Signature Flight Support UK Regions Limited
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Service Mark Application Serial No. 85/175893

For the Mark **SIGNATURE**

Published in the Official Gazette on May 3, 2011

Signature Flight Support UK Regions Limited

Opposer,

Opposition No. 91201400

vs.

Signature Travel Network Cooperative, Inc.,

Applicant.

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**BRIEF IN RESPONSE TO APPLICANT'S MOTION TO WITHDRAW VOLUNTARY  
WITHDRAWAL OF APPLICATION AND REINSTITUTE PROCEEDING**

Pursuant to 37 C.F.R. §2.135, after the commencement of an opposition, if the applicant files a written abandonment of the mark without the written consent of every adverse party, judgment shall be entered against the applicant. On September 20, 2011, Applicant filed a "Voluntary Withdrawal of Application." The Board construed Applicant's communication as a written abandonment. On October 25, 2011 Applicant filed its Motion to Withdraw Voluntary Withdrawal of Application ("Applicant's Motion"). Opposer respectfully submits that Applicant's motion should not be granted for the following reasons.

Applicant's Motion should not be granted because doing so would contradict 37 C.F.R. §2.135. Applicant clearly violated 37 C.F.R. §2.135 when it filed the written abandonment without obtaining Opposer's consent and Applicant is now attempting to correct its procedural error by requesting a second chance. However, given that Applicant is aware of the rules governing motion practice, one must presume that Applicant was aware of the rest of the rules in the Manual of Procedure, including 37 C.F.R. §2.135, when it filed its written abandonment. Applicants should have followed 37 C.F.R. §2.135 in the first place.

Opposer should not have to suffer any consequences for Applicant's failure to abide by the rules. Contrary to Applicant's argument, granting Applicant's motion will prejudice Opposer. By Applicant's failure to follow 37 C.F.R. §2.135, judgment should now be entered against Applicant, thereby disposing of both this Opposition proceeding and the subject Application. If judgment is not entered against Applicant and Applicant's Motion is granted, Opposer will suffer substantial prejudice by being forced to continue in this Opposition proceeding and by being subjected to the continued risks associated with Applicant's confusingly similar use of the mark SIGNATURE. Moreover, Opposer has already been prejudiced by needing to pay its attorneys to respond to Applicant's Motion.

Applicant's Motion does not deal squarely with the issue of 37 C.F.R. §2.135; instead it tries redirect the blame for Applicant's error onto Opposer for not consenting. There are some obvious defects in Applicant's line of reasoning that do not need to be articulated, but, nonetheless, are summarized here for the sake of putting them on the record. First, Applicant has not alleged that it actually sought Opposer's consent prior to filing its Voluntary Withdrawal of Application. Next, even if Applicant had sought Opposer's consent, Opposer would still not be required to consent. Also, the fact that Opposer did not consent after Applicant filed the written abandonment, is completely irrelevant to whether final judgment against Applicant should be entered under 37 C.F.R. §2.135.

Further, Applicant's Motion does not present any legal authority that supports its request for relief from the clear letter of the Rules. Accordingly, Opposer respectfully submits that because Applicant filed its "Voluntary Withdrawal of Application" without Opposer's consent, Applicant's Motion should be denied and judgment should be entered against Applicant in accordance with 37 C.F.R. §2.135.

Respectfully submitted,

Dated: November 7, 2011

/s/ Christopher M. Ramsey

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**Attorneys for Opposer**

**Signature Flight Support UK Regions Limited**

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing is being served by U.S. Mail to the following:

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/s/ Christopher M. Ramsey

Date: November 7, 2011